

AF



**THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS AND INTERFERENCES**

App. No. : 10/798,505  
 Applicants : Aoyama et al.  
 Filed : March 11, 2004  
 Art Unit : 3623  
 Examiner : Susanna Meinecke Diaz  
 Docket No. : 600052-0000 (B75163D)  
 Customer No. : 33649

Confirmation No. 6391

Mail Stop Appeal Brief - Patents  
 Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

**Certificate of Mailing Under 37 C.F.R. 1.8(a)**

I hereby certify that these documents are being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to Mail Stop Appeal Brief - Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on February 20, 2007.

*[Signature]*  
 Joan B. Farragher

**ATTENTION: Board of Patent Appeals and Interferences**

**TRANSMITTAL OF APPEAL BRIEF**

In response to the Notification of Non-Compliant Appeal Brief mailed January 22, 2007, enclosed is the substitute Appellant's Brief. A check in the amount of \$500.00 was filed with the original Appellant's Brief on June 26, 2006. This Appellant's Brief is timely filed within the 30-day period set forth with the mailing of the Notification on January 22, 2007. Therefore, no fees are believed due with the filing of this substitute Appellant's Brief; however, the Commissioner is hereby authorized to charge any additional fee or credit any refund to the deposit account of Jackson Walker L.L.P., No. 10-0096.

In response to the Notification, the Appellant contacted Specialist Lorenda Hood, who stated that identification of the specific claims which relate to each ground of rejection and correction of the heading would be responsive to the Notification. Appellants appreciate this further guidance, and submit herewith the corrected Appeal Brief.

Dated: February 20, 2007

Respectfully submitted,

JACKSON WALKER L.L.P.

By: 

\_\_\_\_\_  
Christopher J. Rourk  
Reg. No. 39,348

901 Main Street, Suite 6000  
Dallas, Texas 75202  
Telephone: (214) 953-5990  
Facsimile: (214) 661-6604



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS AND INTERFERENCES**

App. No. : 10/798,505 Confirmation No. 6391  
 Applicants : Aoyama et al.  
 Filed : March 11, 2004  
 Art Unit : 3623  
 Examiner : Susanna Meinecke Diaz  
 Docket No. : 600052-0000 (B75163D)  
 Customer No. : 33649

Mail Stop Appeal Brief - Patents  
 Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

Certificate of Mailing Under 37 C.F.R. 1.8(a)

I hereby certify that these documents are being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to: Mail Stop Appeal Brief – Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on February 20, 2007.

*Joan B. Farragher*  
 Joan B. Farragher

**ATTENTION: Board of Patent Appeals and Interferences**

**APPELLANT'S BRIEF (37 C.F.R. 41.37(c))**

This brief is in furtherance of the Notice of Appeal, filed in this case on April 20, 2006, the Final Office Action mailed February 21, 2006, and the Notice of Non-Compliant Appeal Brief mailed January 22, 2007.

The fees required under § 1.17(c), and any required petition for extension of time for filing this brief and related fees are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

## TABLE OF CONTENTS

I.	REAL PARTIES IN INTEREST (37 C.F.R. §41.37(c)(i)) .....	3
II.	RELATED APPEALS AND INTERFERENCES (37 C.F.R. §41.37(c)(ii)) .....	4
III.	STATUS OF CLAIMS (37 C.F.R. §41.37(c)(iii)) .....	5
	A. TOTAL NUMBER OF CLAIMS IN APPLICATION .....	5
	B. STATUS OF ALL THE CLAIMS IN APPLICATION .....	5
	C. CLAIMS ON APPEAL .....	5
IV.	STATUS OF AMENDMENTS (37 C.F.R. §41.37(c)(iv)) .....	6
V.	SUMMARY OF THE CLAIMED SUBJECT MATTER (37 C.F.R. §41.37(c)(v)) .....	7
VI.	GROUND OF REJECTION TO BE REVIEWED UPON APPEAL(37 C.F.R. §41.37(c)(vi)) .....	11
VII.	ARGUMENTS(37 C.F.R. §41.37(c)(vii)) .....	12
	1. The Examiner has Misconstrued the Reverse Logistics Means .....	12
	2. The Examiner has Misconstrued the “Transfer Data” Generated by the Reverse Logistic Means .....	13
	3. The Examiner has Misconstrued the “Internal Warehouse” that Receives Shipping Data Generated from the Transfer Data of the Reverse Logistic Means .....	14
	4. The Examiner has Misconstrued the “Inventory System” that Receives Shipping Data Generated from the Transfer Data of the Reverse Logistic Means .....	15
	5. The Examiner has Misconstrued the “Internal Warehouse Order System” that Receives Shipping Data Generated from the Transfer Data of the Reverse Logistic Means .....	15
	6. The Examiner has Misconstrued the “External Warehouse Order System” that Receives Shipping Data Generated from the Transfer Data of the Reverse Logistic Means .....	16
	7. The Examiner has Misconstrued “Reverse Logistics Data” .....	16
	8. The Examiner has Failed to Provide a Statutory Basis for the Rejection of Claim 31 .....	17
	9. The Examiner has Failed to Provide a Prima Facie Basis for the Rejection of Claims 25-30, 32-36, and 38 Under 35 U.S.C. 103 .....	18
VIII.	APPENDIX OF CLAIMS (37 C.F.R. §41.37(c)(viii)) .....	23
IX.	EVIDENCE APPENDIX (37 C.F.R. 41.37(c)(ix)) .....	27
X.	RELATED PROCEEDINGS APPENDIX (37 C.F.R. 41.37(c)(x)) .....	28

**I. REAL PARTIES IN INTEREST (37 C.F.R. §41.37(c)(i))**

The real party in interest in this appeal is:

☒ the following party:

Mitsui Bussan Logistics, Inc. by an assignment from the Inventors recorded at Reel 014537, Frame 0596 on 09/30/2003.

**II. RELATED APPEALS AND INTERFERENCES****(37 C.F.R. §41.37(c)(ii))**

With respect to other appeals or interferences that will directly affect, or be directly affected by, or have a bearing on the Board's decision in the pending appeal:

4 ☒ there are no such appeals or interferences.

**III. STATUS OF CLAIMS (37 C.F.R. §41.37(c)(iii))**

**A. TOTAL NUMBER OF CLAIMS IN APPLICATION**

Claims in the application are: 20

**B. STATUS OF ALL THE CLAIMS IN APPLICATION**

1. Claims rejected: Claims 11 through 14, 21 through 36 and 38.
2. Claims cancelled: Claims 1 through 10, 15 through 20, and 37

**C. CLAIMS ON APPEAL**

The claims on appeal are: Claims 11 through 14, 21 through 36 and 38.

**IV. STATUS OF AMENDMENTS (37 C.F.R. §41.37(c)(iv))**

No amendments have been submitted subsequent to the final rejection of the claims.



**V. SUMMARY OF THE CLAIMED SUBJECT MATTER (37 C.F.R. §41.37(c)(v))**

Claim 11 is drawn to a system for supply chain management that includes an order controller system including reverse logistics means for generating transfer data. (See, for example and not by way of limitations, Fig. 1, paragraphs 18-21; Fig. 8, paragraphs 88-93) A warehouse system receives the reverse logistics transfer data and generates shipping data.

Claim 12 depends from claim 11 and further comprises a distribution system receiving the reverse logistics transfer data and generating shipping data. (See, for example and not by way of limitations, Fig. 1, paragraphs 18-21; Fig. 8, paragraphs 88-93)

Claim 13 depends from claim 11 wherein the order controller system further comprises an internal warehouse order system receiving the shipping data and modifying internal warehouse order data in response to the shipping data. (See, for example and not by way of limitations, Fig. 1, paragraphs 18-21; Fig. 2, paragraphs 32-38; Fig. 8, paragraphs 88-93)

Claim 14 depends from claim 11 wherein the warehouse system further comprises an inventory system receiving the shipping data and modifying inventory data in response to the shipping data. (See, for example and not by way of limitations, Fig. 1, paragraphs 18-21; Fig. 2, paragraphs 32-38; Fig. 8, paragraphs 88-93)

Claim 21 includes a system for supply chain management that includes an order controller system having reverse logistic means for receiving warehouse inventory data and distribution center inventory data and reverse logistics data to generating transfer data to improve a distribution of inventory at a warehouse and a distribution center. (See, for example and not by way of limitations, Fig. 1, paragraphs 18-21; Fig. 8, paragraphs 88-93) A warehouse system receiving the reverse logistics transfer data and generating shipping data. A distribution system receiving the reverse logistics transfer data and generating shipping data.

Claim 22 includes the system of claim 21 wherein the order controller system further comprises an internal warehouse order system receiving the shipping data and modifying internal warehouse order data in response to the shipping data for a warehouse operated by an operator of the supply chain management system. (See, for example and not by way of limitations, Fig. 1, paragraphs 18-21; Fig. 2, paragraphs 32-38; Fig. 8, paragraphs 88-93)

Claim 23 includes the system of claim 21 wherein the order controller system further comprises an external warehouse order system receiving the shipping data and modifying external warehouse order data in response to the shipping data for a warehouse that is not

operated by an operator of the supply chain management system. (See, for example and not by way of limitations, Fig. 1, paragraphs 18-21; Fig. 2, paragraphs 32-38; Fig. 8, paragraphs 88-93)

Claim 24 includes the system of claim 21 wherein the warehouse system further comprises an inventory system receiving the shipping data and modifying inventory data in response to the shipping data. (See, for example and not by way of limitations, Fig. 1, paragraphs 18-21; Fig. 2, paragraphs 32-38; Fig. 8, paragraphs 88-93)

Claim 25 includes the system of claim 21 further comprising a promotion management system generating promotion data, wherein the order controller system receives the promotion data and generates reverse logistics data to improve a distribution of inventory at a warehouse and a distribution center in response to the promotion data. (See, for example and not by way of limitations, Fig. 1, paragraphs 18-21; Fig. 3, paragraphs 39-47; Fig. 8, paragraphs 88-93)

Claim 26 includes a method for supply chain management comprising receiving warehouse inventory data and distribution center inventory data and generating reverse logistics data to modify a distribution of inventory at a first warehouse and a second warehouse. The reverse logistics data is received at a first warehouse system and shipping data is generated. The reverse logistics data is received at a second warehouse system and shipping data is generated. (See, for example and not by way of limitations, Fig. 1, paragraphs 18-21; Fig. 8, paragraphs 88-93)

Claim 27 includes the method of claim 26 further comprising receiving product promotion data and generating reverse logistics data to modify the distribution of inventory at the first warehouse and the second warehouse in response to the product promotion data. (See, for example and not by way of limitations, Fig. 1, paragraphs 18-21; Fig. 8, paragraphs 88-93)

Claim 28 includes the method of claim 26 further comprising receiving product rollout data and generating reverse logistics data to modify the distribution of inventory at the first warehouse and the second warehouse in response to the product rollout data. (See, for example and not by way of limitations, Fig. 1, paragraphs 18-21; Fig. 8, paragraphs 88-93)

Claim 29 includes the method of claim 26 further comprising receiving product replacement data and generating reverse logistics data to modify the distribution of inventory at the first warehouse and the second warehouse in response to the product replacement data. (See, for example and not by way of limitations, Fig. 1, paragraphs 18-21; Fig. 8, paragraphs 88-93)

Claim 30 includes the method of claim 26 further comprising receiving product deletion

data and generating reverse logistics data to modify the distribution of inventory at the first warehouse and the second warehouse in response to the product deletion data. (See, for example and not by way of limitations, Fig. 1, paragraphs 18-21; Fig. 8, paragraphs 88-93)

Claim 31 includes the method of claim 26, wherein the first warehouse is operated by an operator of a supply chain management system and the second warehouse is not operated by the operator of the supply chain management system, and priority is given to maintaining predetermined inventory levels at the first warehouse. (See, for example and not by way of limitations, Fig. 1, paragraphs 18-21; Fig. 8, paragraphs 88-93)

Claim 32 includes the method of claim 26 further comprising receiving inventory data for a plurality of retail locations and generating reverse logistics data to modify the distribution of inventory at the first warehouse and the second warehouse based on the inventory data for the plurality of retail locations. (See, for example and not by way of limitations, Fig. 1, paragraphs 18-21; Fig. 8, paragraphs 88-93)

Claim 33 includes the method of claim 32 further comprising receiving product promotion data for a subset of the plurality of retail locations and generating reverse logistics data to modify the distribution of inventory at the first warehouse and the second warehouse in response to the product promotion data for the subset of the plurality of retail locations. (See, for example and not by way of limitations, Fig. 1, paragraphs 18-21; Fig. 8, paragraphs 88-93)

Claim 34 includes the method of claim 32 further comprising receiving product rollout data for a subset of the plurality of retail locations and generating reverse logistics data to modify the distribution of inventory at the first warehouse and the second warehouse in response to the product rollout data for the subset of the plurality of retail locations. (See, for example and not by way of limitations, Fig. 1, paragraphs 18-21; Fig. 8, paragraphs 88-93)

Claim 35 includes the method of claim 32 further comprising receiving product replacement data for a subset of the plurality of retail locations and generating reverse logistics data to modify the distribution of inventory at the first warehouse and the second warehouse in response to the product replacement data for the subset of the plurality of retail locations. (See, for example and not by way of limitations, Fig. 1, paragraphs 18-21; Fig. 8, paragraphs 88-93)

Claim 36 includes the method of claim 32 further comprising receiving product deletion data for a subset of the plurality of retail locations and generating reverse logistics data to modify the distribution of inventory at the first warehouse and the second warehouse in response to the

product deletion data for the subset of the plurality of retail locations. (See, for example and not by way of limitations, Fig. 1, paragraphs 18-21; Fig. 8, paragraphs 88-93)

Claim 38 includes the method of claim 26 wherein modification of the distribution of inventory at the first warehouse and the second warehouse is accomplished using regularly scheduled delivery vehicles. (See, for example and not by way of limitations, Fig. 1, paragraphs 18-21; Fig. 8, paragraphs 88-93)

**VI. GROUNDS OF REJECTION TO BE REVIEWED UPON APPEAL(37 C.F.R.  
§41.37(c)(vi))**

1. Whether the Examiner has Misconstrued the Reverse Logistics Means in Rejecting Claim 11.
2. Whether the Examiner has Misconstrued the “Transfer Data” Generated by the Reverse Logistic Means in Rejecting Claims 12 and 21.
3. Whether the Examiner has Misconstrued the “Internal Warehouse” that Receives Shipping Data Generated from the Transfer Data of the Reverse Logistic Means in Rejecting Claim 13.
4. Whether the Examiner has Misconstrued the “Inventory System” that Receives Shipping Data Generated from the Transfer Data of the Reverse Logistic Means in Rejecting Claim 24.
5. Whether the Examiner has Misconstrued the “Internal Warehouse Order System” that Receives Shipping Data Generated from the Transfer Data of the Reverse Logistic Means in Rejecting Claim 22.
6. Whether the Examiner has Misconstrued the “External Warehouse Order System” that Receives Shipping Data Generated from the Transfer Data of the Reverse Logistic Means in Rejecting Claim 23.
7. Whether the Examiner has Misconstrued “Reverse Logistics Data” in Rejecting Claim 26.
8. Whether the Examiner has Failed to Provide a Statutory Basis for the Rejection of Claim 31.
9. Whether the Examiner has Failed to Provide a Prima Facie Basis for the Rejection of Claims 25-30, 32-36, and 38 Under 35 U.S.C. 103.

## VII. ARGUMENTS(37 C.F.R. §41.37(c)(vii))

### 1. The Examiner has Misconstrued the Reverse Logistics Means

The construction of the claims adopted by the Examiner is incorrect, and is used to improperly reject the claims. Claim construction is a question of law, and is reviewed *de novo*. *Markman v. Westview*, 52 F. 3d 967, 34 USPQ2d 1321 (Fed. Cir. 1995), *aff'd* 116 S.Ct. 1384 (1996).

No analysis of the claimed means plus function elements has been provided by the Examiner. Under controlling Federal Circuit precedent, when a means plus function clause invokes 35 U.S.C. 112, paragraph 6, the corresponding structure must be identified in the specification of the pending application, and that structure or an equivalent thereof must be identified in the prior art. *See, e.g., WMS Gaming, Inc. v. Int'l Game Technology*, 184 F.3d 1339, 1349 (Fed. Cir. 1999), which holds that:

In a means-plus-function claim in which the disclosed structure is a computer, or microprocessor, programmed to carry out an algorithm, ***the disclosed structure is not the general purpose computer, but rather the special purpose computer programmed to perform the disclosed algorithm.*** The “special purpose computer” results from the computer being “programmed to perform particular functions pursuant to instructions from program software.”

(emphasis added) *See also* M.P.E.P. 2182-83. The Examiner has utterly failed to not only identify the disclosed structure in the pending application, but also to identify whether that disclosed structure or any equivalent thereof is present in the cited prior art. While this may be attributed to an oversight by the Examiner, it is in fact apparent that the Examiner would have failed to perform this analysis in any event because the corresponding structure disclosed in the specification or any equivalent thereof are entirely missing from the cited prior art. Applicants reserve the right to address any arguments presented by the Examiner in response to this point of appeal, but as the Examiner has failed to even address the means plus function elements in the final rejection, the Applicants believe that it would be improper for the Examiner to raise such new grounds of rejection for the first time on appeal.

Claim 11 includes a system for supply chain management that includes an order controller system including reverse logistics means for generating transfer data. A warehouse system receives the reverse logistics transfer data and generates shipping data. The Examiner has

construed the structure of the reverse logistic means to be anticipated by Fig. 3 and paragraphs 21-24 of Yang, but the Examiner states that the “structure corresponding to the reverse logistics means is a computer implemented with software.” Office Action mailed 2/21/2006 at paragraph 2. As discussed above, this construction is incorrect in light of the Federal Circuit’s guidance in *WMS Gaming*, which holds that “the disclosed structure is not the general purpose computer, but rather the special purpose computer programmed to perform the disclosed algorithm.” The Applicant notes that this controlling precedent was conveyed to the Examiner at page 6 of the response filed January 4, 2006.

A review of the cited section of Yang discloses no structure that corresponds to or that is equivalent to the structure disclosed in the specification at Fig. 8 and described at paragraphs [0088] to [0093], as also noted in the response filed January 4, 2006 at page 6. For example, Figs. 5 and 6, do not disclose the structure of the algorithm in Fig. 8 of the pending application, such as receiving warehouse and distribution center inventory data at step 802, comparing the warehouse data to the distribution center data at step 804, and determining whether to transfer product between warehouses at 806. The algorithms disclosed at Figs. 5 and 6 of Yang do not even remotely relate to the algorithms corresponding to the claimed structure, and are not the same as or equivalent to that structure. As such, the Examiner’s insistence, contrary to controlling Federal Circuit precedent, is incorrect. Claim 11 must be allowed over the prior art.

## **2. The Examiner has Misconstrued the “Transfer Data” Generated by the Reverse Logistic Means**

Claim 12 depends from claim 11 and further comprises a distribution system receiving the reverse logistics transfer data and generating shipping data. The Examiner cites to paragraphs 19-20, 21-24 and 35-37 of Yang as support for the rejection, but the Examiner’s construction of reverse logistics data as “transfer data” is incorrect. “Reverse logistics” is defined in the pending application as method 800, whereas “reverse logistics” in Yang is defined as processing for returned parts, see Yang, paragraph [0021]. It is noted that Yang discusses the need to move inventory between distribution centers 24 at [0019] (and it is noted that no structure for doing so is disclosed), but there is no preference for any given distribution center – all points between the suppliers 26 and the customers 16 are identified as distribution center 24. In contrast, the reverse logistics means of method 800 clearly relates to a hierarchical distribution

structure, such as the exemplary hierarchy shown in Fig. 1 of the pending application which includes warehouse systems 108, a distribution system 110 and retail systems 112. In contrast, the distribution centers 24 of Yang are not hierarchical – where Yang discusses the need to move inventory between distribution centers 24 at [0019], there is no preference for any given distribution center. The structure of Fig. 8 of the pending application is provided “to accommodate product rollout, product deletion, [and] product replacement,” as described at paragraph [0090], and to “facilitate product rollout, product promotion, product replacement, [and] product deletion,” as described at paragraph [0093]. As such, it may be *desirable* for certain warehouses to have low inventory if they are in an area where a product has been deleted.

Yang utterly fails to even contemplate that structure required to accomplish that function is even needed – all distribution centers 24 of Yang are equal, and one using the teachings of Yang would transfer inventory that is being phased out to a warehouse system for a geographical area where there is no inventory, thus increasing the costs of phase out because of the need to accommodate additional products at retail systems 112. Furthermore, the Examiner *admits* that Yang lacks structure for product promotion at paragraph 6 of the final office action, which is an admission that Yang fails to disclose the claimed structure! Claim 12 must be allowed over the prior art.

Claim 21 includes a system for supply chain management that includes an order controller system having reverse logistic means for receiving warehouse inventory data and distribution center inventory data and generating transfer data to improve a distribution of inventory at a warehouse and a distribution center, a warehouse system receiving the transfer data and generating shipping data, and a distribution system receiving the transfer data and generating shipping data. As previously discussed, Yang fails to disclose any hierarchy between the distribution systems 24, such that any structure that might have been provided with Yang would necessarily lack the disclosed reverse logistics means. As such, claim 21 must be allowed over the prior art.

### **3. The Examiner has Misconstrued the “Internal Warehouse” that Receives Shipping Data Generated from the Transfer Data of the Reverse Logistic Means**

Claim 13 depends from claim 11 wherein the order controller system further comprises an internal warehouse order system receiving the shipping data and modifying internal warehouse



order data in response to the shipping data. Internal warehouses are not disclosed or suggested by Yang, which lacks any hierarchical structure in its distribution centers 24. Claim 13 must be allowed over the prior art.

**4. The Examiner has Misconstrued the “Inventory System” that Receives Shipping Data Generated from the Transfer Data of the Reverse Logistic Means**

Claim 14 depends from claim 11 wherein the warehouse system further comprises an inventory system receiving the shipping data and modifying inventory data in response to the shipping data. Yang fails to disclose an inventory system for a warehouse system in an hierarchical distribution architecture that is capable of receiving shipping data that includes reverse logistics data such as product rollout, product deletion and product replacement data and that modifies inventory data in response to the shipping data. Claim 14 must be allowed over the prior art.

Claim 24 includes the system of claim 21 wherein the warehouse system further comprises an inventory system receiving the shipping data and modifying inventory data in response to the shipping data. As previously discussed, Yang fails to disclose any hierarchy between the distribution systems 24, such that any structure that might have been provided with Yang would necessarily lack the disclosed reverse logistics means. Claim 24 must be allowed over the prior art.

**5. The Examiner has Misconstrued the “Internal Warehouse Order System” that Receives Shipping Data Generated from the Transfer Data of the Reverse Logistic Means**

Claim 22 includes the system of claim 21 wherein the order controller system further comprises an internal warehouse order system receiving the shipping data and modifying internal warehouse order data in response to the shipping data for a warehouse operated by an operator of the supply chain management system. As previously discussed, Yang fails to disclose any hierarchy between the distribution systems 24, such that any structure that might have been provided with Yang would necessarily lack the disclosed reverse logistics means. Claim 22 must be allowed over the prior art.

**6. The Examiner has Misconstrued the “External Warehouse Order System” that Receives Shipping Data Generated from the Transfer Data of the Reverse Logistic Means**

Claim 23 includes the system of claim 21 wherein the order controller system further comprises an external warehouse order system receiving the shipping data and modifying external warehouse order data in response to the shipping data for a warehouse that is not operated by an operator of the supply chain management system. As previously discussed, Yang fails to disclose any hierarchy between the distribution systems 24, such that any structure that might have been provided with Yang would necessarily lack the disclosed reverse logistics means. Claim 23 must be allowed over the prior art.

**7. The Examiner has Misconstrued “Reverse Logistics Data”**

Claim 26 includes a method for supply chain management comprising receiving warehouse inventory data and distribution center inventory data and generating reverse logistics data to modify a distribution of inventory at a first warehouse and a second warehouse. The reverse logistics data is received at a first warehouse system and shipping data is generated. The reverse logistics data is received at a second warehouse system and shipping data is generated. The Examiner construes this to cover Yang at paragraphs 21 and 37, as defective parts that are returned to supplier 26 can be sent back to a distribution center 24 and then transferred to another distribution center. However, that construction not only misconstrues the claim to read one of the limitations of “receiving reverse logistics data at a first warehouse system and generating shipping data” and “receiving reverse logistics data at a second warehouse system and generating shipping data” out of the claims, but also misconstrues “reverse logistics data.” As to the first construction error, Yang teaches that a defective part is returned — that is not warehouse inventory data nor distribution center inventory data, which the reverse logistics data is generated in response to. As such, the return of the defective part has no relevance to the claimed invention. The repaired defective part is then placed back into the stream of commerce, but at this point it is no different from an ordinary part. The repaired defective part is then transferred between a first distribution center 24 and a second distribution center 24, but that only requires a single act of generating shipping data, and as shown, that is not done in response to reverse logistics data, which as admitted by the Examiner is the data relating to the return of the

defective part.

As to the second error, the reverse logistics data of claim 26 1) is generated after receiving warehouse inventory data and distribution center inventory data to modify a distribution of inventory at a first warehouse and a second warehouse, 2) is received at the first warehouse after which shipping data is generated, and 3) is received at the second warehouse after which shipping data is generated. The reverse logistics data of Yang only relates to return of a defective item – even if Yang is read impermissibly as disclosing that the data for transferring products between distribution centers is “reverse logistics data,” that is at best only the step of receiving reverse logistics data at a distribution center and generating shipping data. A distribution center is not a warehouse. As described in the specification at [0056], a distribution center receives goods and assembles or processes them for sale at retail locations without long-term storage. In contrast, a warehouse is a facility that provides long-term storage. As noted in the specification at [0005], a system for distribution chain management is provided that allows architectures to be implemented other than the manufacturer-warehouse-retail store architecture, which is admitted prior art in paragraph [0002] of the specification. Yang is not even drawn to such manufacturer-warehouse-retail store architectures, but is instead drawn to a business-to-business architecture, Yang at [0018]. As such, Yang simply fails to disclose all of the elements of claim 26, much less the admitted prior art, and the claim must be allowed over the prior art.

#### **8. The Examiner has Failed to Provide a Statutory Basis for the Rejection of Claim 31**

Claim 31 includes the method of claim 26, wherein the first warehouse is operated by an operator of a supply chain management system and the second warehouse is not operated by the operator of the supply chain management system, and priority is given to maintaining predetermined inventory levels at the first warehouse. The Examiner first asserts at page 4 of the final office action that who operates the first and second warehouse does not affect any recited structure or functionality and therefore merits no patentable weight. This argument is incorrect, though, as the method also includes that “priority is given to maintaining predetermined inventory levels at a first warehouse.” Thus, who operates the warehouse does, in fact, have patentable weight, because it identifies the warehouse for which the step of giving priority to

maintaining a predetermined inventory level is performed for. The Examiner next argues that the claim does not shed light on the importance or benefits of the claim – that is the role of the specification, and such benefits are disclosed at paragraphs [0038], [0047], and in numerous other locations. As such, the Examiner has focused on incorrect standards for rejecting claim 31, and has failed to appreciate that the step of giving priority to maintaining predetermined inventory levels at some warehouses over other warehouses is not disclosed by Yang. Claim 31 must be allowed over the prior art.

**9. The Examiner has Failed to Provide a Prima Facie Basis for the Rejection of Claims 25-30, 32-36, and 38 Under 35 U.S.C. 103**

Claim 25 includes the system of claim 21 further comprising a promotion management system generating promotion data, wherein the order controller system receives the promotion data and generates reverse logistics data to improve a distribution of inventory at a warehouse and a distribution center in response to the promotion data. The Examiner admits that Yang fails to disclose this element (which is an admission that Yang fails to disclose the corresponding structure, as discussed), but asserts at paragraph 6 of the final office action that Singh “makes up for these deficiencies in its teaching of a retail-based forecast and planning system that takes into account causal factors.” However, this belies the fact that Singh fails to disclose a promotion management system in a system of claim 21. There is no reverse logistics means in either Yang or Singh, and Singh simply cannot provide the structure disclosed in the pending application by discussing forecasting techniques. Singh at best discloses a single centralized system for “forecasting future demand for many products and product types in many markets.” Singh, paragraph [0014]. This system is not used for supply chain management but to enable “organizations to produce and compare alternative models of forecasting demand in order to constantly improve demand forecasting capabilities.” Singh, paragraph [0015]. No structure for implementing Singh’s forecasting system in even the primitive distribution system of Yang is disclosed or suggested, much less in an hierarchical system such as the exemplary system of Fig. 1 of the pending application. Singh does not teach how to implement promotion management, and one of ordinary skill in the art would read Singh to suggest that promotion management can be accomplished in advance instead of in an ongoing manner where transfers of a distribution of inventory at a warehouse and a distribution center is needed in response to the promotion data

such that some retail locations and their associated distribution warehouses may require replenishment while other retail locations and their associated warehouses may not, see paragraphs [0042-0046] of the pending application. Claim 25 must be allowed over the prior art.

Claim 27 includes the method of claim 26 further comprising receiving product promotion data and generating reverse logistics data to modify the distribution of inventory at the first warehouse and the second warehouse in response to the product promotion data. Product promotion data can include data such as advertising campaign data, coupon distribution data, or other suitable data, such that some retail locations and their associated distribution warehouses may require replenishment while other retail locations and their associated warehouses may not, see paragraphs [0042-0046] of the pending application. Neither Yang nor Singh disclose such functionality, which allows reverse logistics data to be generated to modify the distribution of inventory, such as to transfer inventory from an area where coupons are not being distributed to an area where coupons are being distributed. This is not surprising, as Yang fails to disclose the hierarchical structure of Fig. 1 and Singh merely relates to a forecasting system and not a management system. Claim 27 must be allowed over the prior art.

Claim 28 includes the method of claim 26 further comprising receiving product rollout data and generating reverse logistics data to modify the distribution of inventory at the first warehouse and the second warehouse in response to the product rollout data. Again, product rollout creates unique demands from promotions or other distribution system functions, as described in the pending application. Neither Yang nor Singh discriminate between the supply chain management functionality required for product rollout and other distribution system functions, and the Examiner has identified none at paragraph 6 of the final office action. Claim 27 must be allowed over the prior art.

Claim 29 includes the method of claim 26 further comprising receiving product replacement data and generating reverse logistics data to modify the distribution of inventory at the first warehouse and the second warehouse in response to the product replacement data. Products may only be replaced in certain markets in certain areas, or in certain geographical regions, such that some retail locations and their associated distribution warehouses may require replenishment while other retail locations and their associated warehouses may not, see paragraphs [0042-0046] of the pending application. Neither Yang nor Singh discriminate between the supply chain management functionality required for product rollout and other

distribution system functions, and the Examiner has identified none at paragraph 6 of the final office action. Claim 29 must be allowed over the prior art.

Claim 30 includes the method of claim 26 further comprising receiving product deletion data and generating reverse logistics data to modify the distribution of inventory at the first warehouse and the second warehouse in response to the product deletion data. Products may only be replaced in certain markets in certain areas, or in certain geographical regions, or only at certain times of the year, such that some retail locations and their associated distribution warehouses may require replenishment while other retail locations and their associated warehouses may not, see paragraphs [0042-0046] of the pending application. Neither Yang nor Singh discriminate between the supply chain management functionality required for product deletion and other distribution system functions, and the Examiner has identified none at paragraph 6 of the final office action. Claim 30 must be allowed over the prior art.

Claim 32 includes the method of claim 26 further comprising receiving inventory data for a plurality of retail locations and generating reverse logistics data to modify the distribution of inventory at the first warehouse and the second warehouse based on the inventory data for the plurality of retail locations. Neither Yang nor Singh disclose retail locations, and fail to provide a prima facie basis for the rejection of claim 32. Claim 32 must be allowed over the prior art.

Claim 33 includes the method of claim 32 further comprising receiving product promotion data for a subset of the plurality of retail locations and generating reverse logistics data to modify the distribution of inventory at the first warehouse and the second warehouse in response to the product promotion data for the subset of the plurality of retail locations. Neither Yang nor Singh disclose retail locations, much less how to process product promotion data for different retail locations and fail to provide a prima facie basis for the rejection of claim 33. Claim 33 must be allowed over the prior art.

Claim 34 includes the method of claim 32 further comprising receiving product rollout data for a subset of the plurality of retail locations and generating reverse logistics data to modify the distribution of inventory at the first warehouse and the second warehouse in response to the product rollout data for the subset of the plurality of retail locations. Neither Yang nor Singh disclose retail locations, much less how to process product rollout data for different retail locations and fail to provide a prima facie basis for the rejection of claim 34. Claim 34 must be allowed over the prior art.

Claim 35 includes the method of claim 32 further comprising receiving product replacement data for a subset of the plurality of retail locations and generating reverse logistics data to modify the distribution of inventory at the first warehouse and the second warehouse in response to the product replacement data for the subset of the plurality of retail locations. Neither Yang nor Singh disclose retail locations, much less how to process product replacement data for different retail locations and fail to provide a prima facie basis for the rejection of claim 35. Claim 35 must be allowed over the prior art.

Claim 36 includes the method of claim 32 further comprising receiving product deletion data for a subset of the plurality of retail locations and generating reverse logistics data to modify the distribution of inventory at the first warehouse and the second warehouse in response to the product deletion data for the subset of the plurality of retail locations. Neither Yang nor Singh disclose retail locations, much less subsets of retail locations, nor how to process product deletion data for a subset of retail locations, and fail to provide a prima facie basis for the rejection of claim 36. Claim 36 must be allowed over the prior art.

Claim 38 includes the method of claim 26 wherein modification of the distribution of inventory at the first warehouse and the second warehouse is accomplished using regularly scheduled delivery vehicles. The Examiner asserts that it would have been obvious to modify Yang as claimed because “it is old and well-known in the art of business deliveries to schedule delivery vehicles to make regular deliveries at various locations of a business.” However, that assertion has nothing to do with the claimed functionality of “a method for supply chain management comprising receiving warehouse inventory data and distribution center inventory data and generating reverse logistics data to modify a distribution of inventory at a first warehouse and a second warehouse,” where the modification of the distribution of inventory at the first warehouse and the second warehouse is accomplished using regularly scheduled delivery vehicles. How does any given distribution center of Yang even know to modify inventory at a first warehouse and a second warehouse using regularly scheduled delivery vehicles? Even if “reverse logistics” is improperly construed to cover the transfers between distribution centers 24 of Yang, the reverse logistics data of claim 38 is generated from warehouse inventory data and distribution center inventory data. As shown in Fig. 1, a distribution center is not a warehouse – warehouses receive shipments from manufacturers, but distribution centers only receive shipments from warehouses. The “distribution centers” of Yang would at best be the equivalent of a

warehouse as described in the pending application, but given the complete absence of retail stores in Yang, there is no applicability of Yang to the supply chain management claims of the present invention. Claim 38 must be allowed over the prior art.



**VIII. APPENDIX OF CLAIMS (37 C.F.R. §41.37(c)(viii))**

The text of the claims involved in the appeal are:

Claims 1-10 (cancelled).

11. A system for supply chain management comprising:  
an order controller system including reverse logistics means for generating transfer data; and  
a warehouse system receiving the transfer data and generating shipping data.

12. The system of claim 11 further comprising a distribution system receiving the transfer data and generating shipping data.

13. The system of claim 11 wherein the order controller system further comprises an internal warehouse order system receiving the shipping data and modifying internal warehouse order data in response to the shipping data.

14. The system of claim 11 wherein the warehouse system further comprises an inventory system receiving the shipping data and modifying inventory data in response to the shipping data.

Claims 15-20 (cancelled).

21. A system for supply chain management comprising:  
an order controller system having reverse logistic means for receiving warehouse inventory data and distribution center inventory data and generating transfer data to improve a distribution of inventory at a warehouse and a distribution center;  
a warehouse system receiving the transfer data and generating shipping data; and  
a distribution system receiving the transfer data and generating shipping data.

22. The system of claim 21 wherein the order controller system further comprises an internal warehouse order system receiving the shipping data and modifying internal warehouse order data in response to the shipping data for a warehouse operated by an operator of the supply chain management system.

23. The system of claim 21 wherein the order controller system further comprises an external warehouse order system receiving the shipping data and modifying external warehouse order data in response to the shipping data for a warehouse that is not operated by an operator of the supply chain management system.

24. The system of claim 21 wherein the warehouse system further comprises an inventory system receiving the shipping data and modifying inventory data in response to the shipping data.

25. The system of claim 21 further comprising a promotion management system generating promotion data, wherein the order controller system receives the promotion data and generates reverse logistics data to improve a distribution of inventory at a warehouse and a distribution center in response to the promotion data.

26. A method for supply chain management comprising:  
receiving warehouse inventory data and distribution center inventory data and generating reverse logistics data to modify a distribution of inventory at a first warehouse and a second warehouse;  
receiving the reverse logistics data at a first warehouse system and generating shipping data; and  
receiving the reverse logistics data at a second warehouse system and generating shipping data.

27. The method of claim 26 further comprising receiving product promotion data and generating reverse logistics data to modify the distribution of inventory at the first warehouse and the second warehouse in response to the product promotion data.

28. The method of claim 26 further comprising receiving product rollout data and generating reverse logistics data to modify the distribution of inventory at the first warehouse and the second warehouse in response to the product rollout data.

29. The method of claim 26 further comprising receiving product replacement data and generating reverse logistics data to modify the distribution of inventory at the first warehouse and the second warehouse in response to the product replacement data.

30. The method of claim 26 further comprising receiving product deletion data and generating reverse logistics data to modify the distribution of inventory at the first warehouse and the second warehouse in response to the product deletion data.

31. The method of claim 26, wherein the first warehouse is operated by an operator of a supply chain management system and the second warehouse is not operated by the operator of the supply chain management system, and priority is given to maintaining predetermined inventory levels at the first warehouse.

32. The method of claim 26 further comprising receiving inventory data for a plurality of retail locations and generating reverse logistics data to modify the distribution of inventory at the first warehouse and the second warehouse based on the inventory data for the plurality of retail locations.

33. The method of claim 32 further comprising receiving product promotion data for a subset of the plurality of retail locations and generating reverse logistics data to modify the distribution of inventory at the first warehouse and the second warehouse in response to the product promotion data for the subset of the plurality of retail locations.

34. The method of claim 32 further comprising receiving product rollout data for a subset of the plurality of retail locations and generating reverse logistics data to modify the

distribution of inventory at the first warehouse and the second warehouse in response to the product rollout data for the subset of the plurality of retail locations.

35. The method of claim 32 further comprising receiving product replacement data for a subset of the plurality of retail locations and generating reverse logistics data to modify the distribution of inventory at the first warehouse and the second warehouse in response to the product replacement data for the subset of the plurality of retail locations.

36. The method of claim 32 further comprising receiving product deletion data for a subset of the plurality of retail locations and generating reverse logistics data to modify the distribution of inventory at the first warehouse and the second warehouse in response to the product deletion data for the subset of the plurality of retail locations.

Claim 37 (cancelled).

38. The method of claim 26 wherein modification of the distribution of inventory at the first warehouse and the second warehouse is accomplished using regularly scheduled delivery vehicles.

**IX. EVIDENCE APPENDIX (37 C.F.R. 41.37(c)(ix))**

This page intentionally left blank.

**X. RELATED PROCEEDINGS APPENDIX (37 C.F.R. 41.37(c)(x))**

This page intentionally left blank.

Dated: February 20, 2007

Respectfully submitted,

JACKSON WALKER L.L.P.

By: 

Christopher J. Rourke  
Reg. No. 39,348

901 Main Street, Suite 6000  
Dallas, Texas 75202  
Telephone: (214) 953-5990  
Facsimile: (214) 661-6604  
E-Mail: [crouk@jw.com](mailto:crouk@jw.com)